

## 'FUNDAMENTAL ERROR'

# Shafee: Najib was left unrepresented in SRC International final appeal

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**D**ATUK Seri Najib Razak's lead counsel argued yesterday that his client was left virtually unrepresented in his final attempt to overturn the 12-year jail sentence and RM210 million fine for the misappropriation of SRC International funds.

Tan Sri Muhammad Shafee Abdullah said Najib's then lead counsel, Datuk Hisyam Teh Poh Teik, was purely a "decoration" during the proceedings as he was not allowed to discharge himself.

Shafee said the top court made a fundamental error by forcing Hisyam to remain on board, representing Najib at that time.

"You cannot force the counsel to carry on with the case if he

refuses... it is fundamentally wrong. His (Hisyam's) presence during the hearing was decorative and not legally sanctioned.

"The court has no power to enforce that... this is a reviewable decision," Shafee said.

Hisyam had informed the court during the hearing that he wished to be discharged after the court denied his request for an adjournment because he was unable to attend the appeal hearing. However, the panellists led by Chief Justice Tun Tengku Maimun Tuan Mat dismissed Hisyam's request as he failed to show adequate cause to discharge himself.

Shafee said the Federal Court's decision to continue with the

proceedings had "punished" his client by incarcerating him in prison.

He said Hisyam, at the outset of the trial, had admitted that it was his fault (to apply for an adjournment) because he had misjudged the timing when he decided to take on the case.

"The Federal Court should discharge Hisyam because he admitted that he was completely ineffective for the appeal.

"He admitted that it was his fault (to apply for an adjournment) because he misjudged the timing when he decided to take on the case.

"So why punish my client?" he said, adding that Hisyam would breach his professional obligation



Datuk Hisyam Teh Poh Teik



Tan Sri Muhammad Shafee Abdullah says it is not right for the Federal Court to compel a counsel to proceed with a case if he refuses, PIC BY HAIRUL ANUAR RAHIM

if he continued conducting the hearing.

Shafee added that the Federal Court's decision (in not allowing Hisyam to discharge himself and an adjournment) had jeopardised Najib's natural justice and rights.

"Najib's appeal at the Federal Court became ex parte because only the respondent counsel was heard.

"It cannot be a fair trial because you must hear the person who brought the appeal," he said.

The hearing continues tomorrow.

Najib, 70, is seeking a review of the Federal Court's decision to reject his application to adduce fresh evidence relating to High Court judge Datuk Mohd Nazlan

Mohd Ghazali.

He is also seeking a review of the court's decision to dismiss his bid to postpone his appeal hearing, as well as the decision to recuse Tengku Maimun.

He is also seeking a review of the court's decision on Aug 23 last year to affirm his conviction and sentence.

The former prime minister was found guilty of abuse of power in relation to a RM4 billion loan given by the Retirement Fund (Inc) to SRC between August 2011 and March 2012.

He was also convicted of criminal breach of trust and money laundering involving RM42 million of SRC funds between Dec 26, 2014 and Feb 10, 2015.